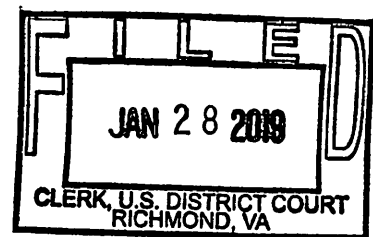


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



JONATHAN SHIN,
Plaintiff,

v.

KOBE ENTERPRISES, INC., *et al.*,
Defendants.

Civil Action No. 3:18CV199 (MHL)

REPORT AND RECOMMENDATION

This matter is before the undersigned pursuant to 28 U.S.C. § 636(b)(3) for a Report and Recommendation after the matter was referred to the undersigned for settlement (ECF No. 12). On October 3, 2018, the undersigned conducted a settlement conference that resulted in the parties reaching an agreement in satisfaction of all claims—those pending and those that could have been pursued as a result of the underlying facts. As evidence of their agreement, the parties executed a Memorandum of Understanding (“MOU”) (Exhibit 1) setting forth the essential terms of the agreement.

One such essential term is that Defendants shall make a total of six monthly payments on the first date of each month, according to the following payment schedule:

1. November 1, 2018:

- a. Payroll check, payable to Jonathan Shin (W-2 to be issued), in the gross amount of \$2,129.59
- b. Check payable to Curwood Law Firm PLC in the amount of \$537.08

2. December 1, 2018:

- a. Check payable to Jonathan Shin (1099 to be issued) in the amount of \$2,129.59**
- b. Check payable to Curwood Law Firm PLC in the amount of \$537.08**

3. January 1, 2019:

- a. Check payable to Curwood Law Firm PLC in the amount of \$2,666.67**

4. February 1, 2019:

- a. Check payable to Curwood Law Firm PLC in the amount of \$2,666.67**

5. March 1, 2019:

- a. Check payable to Curwood Law Firm PLC in the amount of \$2,666.67**

6. April 1, 2019:

- a. Check payable to Curwood Law Firm PLC in the amount of \$2,666.67.**

Another essential term from the MOU is that the parties would enter into a Consent Order of Judgment whereby the parties consented to the entry of judgment should either party breach the MOU or the payment schedule contained therein. Should any disputes arise under the MOU, the MOU provides that the dispute shall be submitted to the undersigned for binding arbitration.

On October 4, 2018, Plaintiff filed a Joint Motion to Approve Consent Judgment (ECF No. 19). The Honorable M. Hannah Lauck approved the Consent Decree (ECF No. 21-1) on October 12, 2018 (ECF No. 21). On December 17, 2018, Plaintiff filed a Motion to Enforce Judgment Pursuant to Breach of Consent Decree and Award Attorneys' Fees, claiming that Defendants breached the Consent Decree by failing to make the required payments. (ECF No. 23).

On January 28, 2019, the undersigned held an arbitration hearing, pursuant to the procedures contemplated in the MOU, and makes the following findings:

1. That Defendants are in breach of the Consent Decree for failing to make the payments as required by the MOU and Consent Decree;
2. That as a result of Defendants' breach of the Consent Decree, judgment should be entered in favor of Plaintiff and against Defendants for a total of Eighteen Thousand Five Hundred Sixty-Two Dollars and Ninety-Two Cents (\$18,562.92), comprised of:
 - a. Fifteen Thousand Two Hundred Sixty-Two Dollars and Ninety-Two Cents (\$15,262.92) as the remaining unpaid settlement amount, which takes into account Defendants' prior payments of Seven Hundred Thirty-Seven Dollars and Eight Cents (\$737.08) paid to Plaintiff in November and December 2018;
 - b. One Thousand Eight Hundred Dollars (\$1,800.00) in penalties for breach, as provided for in the MOU and Consent Decree; and
 - c. One Thousand Five Hundred Dollars (\$1,500.00) in attorneys' fees, as provided for in the MOU and Consent Decree.


Therefore, it is RECOMMENDED that the Court ADOPT the above findings and ENTER JUDGMENT in favor of Plaintiff and against Defendants in the amount of Eighteen Thousand Five Hundred Sixty-Two Dollars and Ninety-Two Cents (\$18,562.92).

Let the Clerk file this Report and Recommendation electronically, forward a copy to the Honorable M. Hannah Lauck, United States District Judge, and notify all counsel of record accordingly.

NOTICE TO PARTIES

Failure to file written objections to the proposed findings, conclusions, and recommendations of the Magistrate Judge contained in the foregoing report within fourteen (14) days after being served with a copy of this report may result in the waiver of any right to a *de novo* review of the determinations contained in the report and such failure shall bar you from attacking on appeal the findings and conclusions accepted and adopted by the District Judge except upon the grounds of plain error.

Richmond, Virginia
Date: January 28, 2019


_____/s/_____
Roderick C. Young
United States Magistrate Judge